

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

I.T.A. No. 280 of 2007

DATE OF DECISION: 8.10.2007

M/s Arisudana Spinning Mills Ltd.

...Appellant

Versus

C.I.T., Ludhiana

...Respondent

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

Present: Mr. Rajiv Sharma, Advocate, for
Mr. S.K. Mukhi, Advocate,
for the appellant-assessee.

M.M. KUMAR, J.

This is assessee's appeal under Section 260A of the Income-tax Act, 1961 (for brevity, 'the Act'), against order dated 31.10.2006, passed by the Income Tax Appellate Tribunal, Chandigarh Branch 'A', Chandigarh (for brevity, 'the Tribunal'), in I.T.A. No. 473/Chandi/2000, in respect of assessment year 1997-98. It is claimed that the following substantial questions of law would arise for determination of this Court:-

- A. Whether, on the facts and circumstances of the case, the ITAT was justified in law to hold that appellant was not entitled to the deduction u/s 80-IA in respect of profits and gains from the business of trading activities though holding the appellant as an industrial undertaking and there

being no specific denial of the impugned deduction on the said activity?

- B. Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal was justified in denying the claims of the appellant company in view of the fact that the income of the appellant from the trading activities is not from any separate unit but it is a part of the activities of the industrial unit. This manufacturing and trading activity is essential part of the industrial undertaking in the absence of which the industrial undertaking cannot survive?
- C. Whether the ITAt was justified in denying the claims of the appellant company by placing reliance upon the judgment of this Court in M/s Liberty Shoes Ltd. (ITA No. 140 of 2005, decided on 17.8.2006) and various judgments referred therein which are distinguishable on facts?
- D. Whether on the facts and circumstances of the case, the findings of ITAT are perverse and against the evidence on record, thus, unsustainable in law?
- E. Whether the ITAT has misdirected itself in being influenced by irrelevant factors and applying erroneous criteria while deciding the issue of eligibility for claiming deduction under Section 80-IA of the Income-tax Act, 1961?

After hearing learned counsel for the assessee-appellant and perusing the record, we are of the considered view that no question of law, much less a substantive question of law warranting admission of the appeal would arise, inasmuch as, the matter is no longer *res integra*. We have already rejected appeals bearing I.T.A. Nos. 278 and 279 of 2007 in the case of M/s Arisudana Spinning Mills Ltd. v. CIT, decided on 31.7.2007, wherein similar questions of law were raised. The Tribunal has rightly allowed the appeal filed by the revenue by following the law laid down by Hon'ble the Supreme Court in the case of CIT v. Sterling Foods, (1999) 237 ITR 579, which is fully applicable to the instant appeal. Therefore, we do not find any ground to interfere with the view taken by the Tribunal.

In view of the above, this appeal is wholly without merit.

Dismissed.

(M.M. KUMAR)
JUDGE

(AJAY KUMAR MITTAL)
JUDGE

October 8, 2007
Pkapoor